

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District	EASTERN DISTRICT OF PENNSYLVANIA
Name (under which you were convicted):		Docket or Case No.:	
CARMEN GRICCO		01-90-1	
Place of Confinement:		Prisoner No.:	
MEDICAL CENTER FOR FEDERAL PRISONERS		54747-066	
UNITED STATES OF AMERICA		Movant (include name under which convicted)	
V.		CARMEN GRICCO	

MOTION

- (a) Name and location of court which entered the judgment of conviction you are challenging: 3RD CIRCUIT EASTERN
DISTRICT OF PENNSYLVANIA
MARKET STREET PHILADELPHIA
- (b) Criminal docket or case number (if you know): 01-90-1 ENCLOSED
- (a) Date of the judgment of conviction (if you know): 12/10/2002
- (b) Date of sentencing: 12/10/2002
- Length of sentence: LIFE
- Nature of crime (all counts): SEE ENCLOSED JUDGMENT
2 PAGES
- (a) What was your plea? (Check one)
(1) Not guilty ☒ (2) Guilty ☐ (3) Nolo contendere (no contest) ☐
- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?
FELON IN POSSESSION OF A FIREARM
- If you went to trial, what kind of trial did you have? (Check one)
Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☒ No ☒

8. Did you appeal from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: 3RD CIRCUIT APPEALS COURT

(b) Docket or case number (if you know): 02-4448

(c) Result: NEVER HEARD OR APPOINTED ATTORNEY (ENCLOSED)

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: NEVER HAD A CHANCE

TO RAISE GROUNDS

NO DIRECT APPEAL

NO ATTORNEY APPOINTED (SEE ENCLOSED)

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If "Yes," answer the following:

(1) Docket or case number (if you know): N/A

(2) Result: DENIED NOT HEARD

(3) Date of result (if you know): N/A

(4) Citation to the case (if you know): _____

(5) Grounds raised: NO ATTORNEY

NO DIRECT APPEAL

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court? Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: LOUISIANA COURT

(2) Docket or case number (if you know): 1:08 CV 0786 SEC P

(3) Date of filing (if you know): JUN 2 2008(4) Nature of the proceeding: 2241

(5) Grounds raised:

DEPRIVED OF ATTORNEY AND DIRECT
APPEAL VIOLATION OF 5TH AND 6TH
AMENDMENTS

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☒

(7) Result:

DENIED FAILED TO SHOW CONSTITUTIONAL(8) Date of result (if you know): JULY 22, 2008 VIOLATION

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: 5TH CIRCUIT APPEALS(2) Docket of case number (if you know): 08-30720(3) Date of filing (if you know): 6-24-2009(4) Nature of the proceeding: 2241(5) Grounds raised: NO ATTORNEY NO DIRECT
APPEAL CONSTITUTIONAL VIOLATION

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☒(7) Result: NOT HEARD(8) Date of result (if you know): DENIED NOT HEARD

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☒ No ☐(2) Second petition: Yes ☒ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

COURT 8TH CIRCUIT SAID DO A 2255
CASE # 10-3198-CV-S-0DS-H

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: NO ATTORNEY EVER APPOINTED AFTER
FILING AND DOCKETING FEES WERE PAID

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ENCLOSED EXHIBITS
CERTIFIED SENT AND OATHED BY B.O.P.

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

I, NEVER RECEIVED A DIRECT APPEAL OR AN
ATTORNEY APPOINTED (SEE ALL ENCLOSED DOCUMENTS)

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO:

NO DIRECT APPEAL EVER PROVIDED
VIOLATION OF CONSTITUTIONAL RIGHT

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ENCLOSED EXHIBITS

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

I NEVER RECEIVED A DIRECT APPEAL
SEE ENCLOSED EXHIBITS

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?
Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?
Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?
Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?
Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?
Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

(b) At the arraignment and plea:

(c) At the trial:

ARTHUR SHUMAN

(d) At sentencing:

ARTHUR SHUMAN

(e) On appeal:

NEVER HEARD

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

16. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

17. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

AFTER EXHAUSTING 2241 AND
 CERATORS COURT NOW SAID DO A
 2255. WAITING TO HAVE GOVERNMENT
 VIOLATION OF CONSTITUTION REMOVED.
 ADMINISTRATIVE REMEDY EXHAUSTED ALSO.
 SEE ENCLOSED DOCUMENTS
 DO TO THE COURTS RUN AROUND THE ULTIMATE
 RESPONSIBILITY FOR SUCH CIRCUMSTANCES
 ON NEGLIGENCE OR OVERCROWDED COURTS
 MUST REST WITH THE GOVERNMENT RATHER
 THAN DEFENDANT. DENIED OPPORTUNITY TO
 FILE APPEAL, APPEAL BRIEF NO ATTORNEY
 NO DIRECT APPEAL (NOT MANDATED BY EXHAUSTING REQ.)

* 28 U.S.C. § 2255(f), provides that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: UNCONDITIONAL
GRANTED RELEASE FOR VIOLATION OF 5TH AND
6TH AMENDMENTS FOR OVER 6 YEARS (SEE ENCLOSED
or any other relief to which movant may be entitled. EXHIBITS)

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on 6/22/2010
(month, date, year)

Executed (signed) on 6/22/2010 (date)

Cameron Guillot
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

Inmate Statement



Inmate Reg #: 01221954
 Inmate Name: GILLESPIE, MICHAEL
 Report Date: 06/21/2010
 Report Time: 12:05:00 PM
 Current Institution: Housing Unit
 Housing Unit: SPG-101
 Filing Quarterly: 06/21/10

Alpha Code	Date/Time	Reference#	Payment#	Receipt#	Transaction Type	Transaction Amount	Encumbrance Amount	Ending Balance
SPG	6/16/2010 5:32:48 PM	48			Sales	(\$8.80)		\$111.91
SPG	6/9/2010 5:50:36 PM	62			Sales	(\$8.80)		\$120.71
SPG	6/3/2010 10:18:22 AM	0077			Photo Copies	(\$35.00)		\$129.51
SPG	6/2/2010 5:54:56 PM	60			Sales	(\$8.80)		\$164.51
SPG	5/26/2010 4:35:11 PM	2			Sales	(\$23.80)		\$173.31
SPG	5/19/2010 4:34:22 PM	5			Sales	(\$8.80)		\$197.11
SPG	5/12/2010 4:57:03 PM	30			Sales	(\$23.80)		\$205.91
SPG	5/7/2010 5:06:47 AM	70157701			Lockbox - CD	\$200.00		\$229.71
SPG	5/6/2010 2:40:46 PM		644		Donation	(\$5.00)		\$29.71
SPG	5/6/2010 2:40:46 PM		641		Gift	(\$75.00)		\$34.71
SPG	5/6/2010 2:40:46 PM		640		Gift	(\$100.00)		\$109.71
SPG	5/5/2010 4:59:32 PM	18			Sales	(\$11.15)		\$209.71
SPG	5/3/2010 2:26:36 PM	0064			Photo Copies	(\$6.30)		\$220.86
SPG	4/14/2010 6:38:56 PM	95			Sales	(\$14.80)		\$227.16
SPG	4/2/2010 5:11:13 AM	70155201			Lockbox - CD	\$100.00		\$241.96
SPG	3/19/2010 8:04:58 AM	4			Sales	(\$10.00)		\$141.96
SPG	3/1/2010 12:44:54 PM		450		Gift	(\$92.00)		\$151.96
SPG	2/4/2010 1:50:55 PM		378		Gift	(\$25.00)		\$243.96
SPG	2/4/2010 1:50:55 PM		377		Gift	(\$50.00)		\$268.96
SPG	1/23/2010 5:02:51 AM	70150501			Lockbox - CD	\$100.00		\$318.96
SPG	1/11/2010 5:09:03 AM	70149603			Lockbox - CD	\$100.00		\$218.96
SPG	1/11/2010 5:09:01 AM	70149603			Lockbox - CD	\$100.00		\$118.96
SPG	12/18/2009 7:36:20 AM	3			Sales	(\$23.80)		\$18.96
SPG	12/15/2009 9:09:47 AM		232		Gift	(\$100.00)		\$42.76
SPG	12/15/2009 9:09:47 AM		229		Gift	(\$100.00)		\$142.76
SPG	12/11/2009 7:46:59 AM	5			Sales	(\$23.80)		\$242.76
SPG	12/4/2009 8:21:46 AM	9			Sales	(\$23.80)		\$266.56
SPG	12/2/2009 9:49:08 AM	0016			Photo Copies	(\$6.60)		\$290.36
SPG	11/29/2009 5:09:48 AM	70146902			Lockbox - CD	\$100.00		\$296.96
SPG	11/25/2009 7:56:20 AM	2			Sales	(\$23.80)		\$196.96
SPG	11/25/2009 7:55:11 AM	1			Sales	\$0.00		\$220.76
SPG	11/20/2009 9:06:54 AM	43			Sales	(\$10.00)		\$220.76
SPG	11/20/2009 8:04:55 AM	12			Sales	(\$13.80)		\$230.76

United States District Court

EASTERN

DISTRICT OF

PENNSYLVANIA

Plaintiff

APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF
FEES AND AFFIDAVIT

V.

Defendant

CASE NUMBER:

10 3127

I, CARMEN GRICCO declare that I am the (check appropriate box)
☒ petitioner/plaintiff/movant ☐ other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC. §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☒ Yes ☐ No (If "No" go to Part 2).

If "Yes" state the place of your incarceration MEDICAL CENTER FOR FEDERAL PRISONERS

Are you employed at the institution? NO Do you receive any payment from the institution? NO

Have the institution fill out the Certificate portion of this affidavit and attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? ☐ Yes ☒ No

a. If the answer is "Yes" state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

a. Business, profession or other self-employment	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
b. Rent payments, interest or dividends	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
c. Pensions, annuities or life insurance payments	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
d. Disability or workers compensation payments	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
e. Gifts or inheritances	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
f. Any other sources	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

If the answer to any of the above is "Yes" describe each source of money and state the amount received and

FAMILY FOR STAMPS AND COPIES

4. Do you have any cash or checking or savings accounts? ☐ Yes ☒ No

If "Yes" state the total amount: _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? ☐ Yes ☒ No

If "Yes" describe the property and state its value. _____

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I declare under penalty of perjury that the above information is true and correct.

6/22/2010
DATE

Cameron Grice
SIGNATURE OF APPLICANT

NOTICE TO PRISONER: A Prisoner seeking to proceed IFP shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

CERTIFICATE

(Incarcerated applicants only)
(To be completed by the institution of incarceration)

I certify that the applicant named herein has the sum of \$ 111.91 on account to his/her credit at (name of institution) U.S. Medical Center Federal Prisoners. I further certify that the applicant has the following securities to his/her credit 0

I further certify that during the past six months the applicant's average balance was \$ 181.85

6/22/10
DATE

[Signature]
COUNSELOR
SIGNATURE OF AUTHORIZED OFFICER